S.B.Criminal Leave to Appeal No.353/2006.

State of Rajasthan.

vs.

Premdas.

Date : 28.2.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr. HR Soni, P.P.

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Heard learned public prosecutor.

This petition for leave to appeal has been preferred against the acquittal of the acused respondent in criminal case no.253/1996 registered under Section 7/16 of the Prevention of Food Adulteration Act, 1954 (for short 'the PFA Act') by judgment of the Court of Additional Chief Judicial Magistrate, Sojat dated 10.8.2006.

Brief facts of the case are that the Food Inspector Mohanlal Purohit submitted a complaint under Section 7/16 of the PFA Act against the accused respondent on 26.7.1996 stating therein that when accused Premdas was selling milk at 7:00 A.M. On

8.8.1995, the Food Inspector gave cash amount and purchased the milk from accused and sent the sample for chemical examination where the milk was found to be adulterated.

After framing of charge, the prosecution produced witnesses PW1 Khinva Ram, PW2 Mohanlal, Food Inspector and PW3 Ali Mohammed. At the trial, PW1 Khinva Ram was declared hostile. In rebuttal, the accused gave his own statement.

The trial court held that taking of sample of 750 grams of milk from the accused itself is doubtful because of the reason that the Food Inspector himself stated that the accused had only milk measurement container of 500 grams of milk, then the Food Inspector failed to explain that how he measured milk of 750 grams. Apart from it, from the evidence produced by the prosecution, the trial court found that there is a serious contradiction in the statement of the witnesses about the place from where the sample was taken. The Court, on the basis of evidence also held that the prosecution failed to prove that the sample of milk was taken in accordance with the Rules and was properly mixed. The samples were also not properly sealed and sent to the FSL.

Since the reasons given by the trial court are based on appreciation of evidence available on the

record, there is no reason to take a different view by this court.

In view of the above, this leave to petition deserves to be dismissed, hence, dismissed.

(PRAKASH TATIA), J.

S.Phophaliya